

Ministry of Justice of the Russian Federation
Prosecutor General's Office of the Russian Federation

**ASSET RECOVERY:
A PRACTICAL STEP-BY-STEP GUIDE
ON INTERNATIONAL COOPERATION**

2023

INTRODUCTION

International cooperation of the Russian Federation in the field of combating corruption is one of the priority thrusts of state policy in the anti-corruption arena and is implemented as part of the fulfilment of Russia's obligations under the country's international treaties.

The Russian Federation is a party to such international multilateral treaties against corruption as the United Nations Convention against Corruption of October 31, 2003; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of May 16, 2005; the UN Convention on the Prevention and Punishment of the Crime of Genocide of May 16, 2005; and the UN Convention on Human Rights of May 16, 2005, the Council of Europe Convention on Mutual Legal Assistance in criminal matters of April 20, 1959, with the Additional Protocols thereto of March 17, 1978 and Additional Protocols thereto of November 8, 2001, and the OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions of November 21, 1997. Furthermore, a Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed in Chisinau on October 7, 2002, entered into force for the Russian Federation on June 28, 2023.

Russia has made a commitment to wage a comprehensive campaign against corruption and ensure the corrupted officials are prevented from concealing and maintaining illegally obtained wealth and to see to it that such assets are uncovered and returned to the victims of corruption.

The Russian Federation has been actively working and successfully cooperates with the United Nations Office on Drugs and Crime, the Organisation for Economic Cooperation and Development and the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG). One of Russia's key focus areas involves anti-corruption activities carried out jointly with partner the G20 states, as well as within the framework of cooperation among the member states of the Commonwealth of Independent States.

This guide has been prepared as a follow-up to decisions and agreements reached at the G8 summits at Camp David (May 18-19, 2012) and Lough Erne (June 17-18, 2013) and updated in line with the recommendations of the second review cycle of the Russian Federation's implementation of the UN Convention against Corruption.

The guide contains practical information on how the Russian Federation can assist foreign states in asset recovery, as well as specific steps to be followed by foreign states and their competent authorities in establishing cooperation with the relevant government bodies of the Russian Federation in order to obtain their assistance.

INTERNATIONAL LEGAL ASSISTANCE IN ASSET RECOVERY

Interaction with the competent authorities of foreign states on legal assistance in criminal matters, including those related to the return of stolen assets, is based on multilateral and bilateral international treaties of the Russian Federation or based on the principle of reciprocity.

A request for legal assistance is a procedural document the status of which is established in Chapter 53 of the Criminal Procedure Code of the Russian Federation and international treaties defining the scope, terms and conditions of mutual legal assistance between the Russian Federation and foreign states.

Furthermore, in 2017, in order to implement the decisions of the G8 Summit at Camp David (18-19 May 2012), significant amendments were introduced to the Criminal Procedure Code of the Russian Federation aimed at improving the legal regulation in the field of international cooperation on asset identification, freezing, seizure, confiscation and recovery.

In particular, chapter 55 of the Criminal Procedure Code of the Russian Federation defines:

the procedure for the recognition and compulsory enforcement of a judgement or ruling of a court of a foreign state concerning confiscation of the proceeds from crime;

the jurisdiction of requests by the competent authorities of foreign states for the recognition and enforcement of sentences and rulings of foreign courts, and the agencies and individuals that may participate in the proceedings;

a list of grounds on which a court of the Russian Federation may refuse to execute a request.

Requests made on the basis of an international treaty

The Russian Federation has special bilateral and multilateral international treaties regulating legal assistance with more than 70 states.

Legal assistance may also be provided in connection with the investigation of the offenses covered by the United Nations Convention against Corruption of October 31, 2003, the United Nations Convention against Transnational Organised Crime of November 15, 2003, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism of May 16, 2005 as well as other multilateral treaties containing provisions on mutual legal assistance in criminal matters.

Requests not based on an international treaty

In the absence of a treaty on legal assistance in criminal matters, legal assistance is provided on the basis of the principle of reciprocity.

The principle of reciprocity is confirmed by a written obligation of the competent authorities of the requesting state to provide the Russian Federation with similar legal assistance on the basis of the principle of reciprocity.

Upon ratification of the UN Convention against Corruption and the UN Convention against Transnational Organized Crime the Russian Federation made a declaration that it would, on the basis of reciprocity, use these conventions as the necessary and sufficient legal and contractual basis for international cooperation for confiscation purposes.

The requirement of dual criminality

If the act does not constitute an offence under Russian law, legal assistance can be rendered if it is envisioned by an international legal assistance treaty with the requesting state (for example, as in Article I, Paragraph 3, of the Agreement

between the Russian Federation and the United States of America on Mutual Legal Assistance in Criminal Matters of 1999).

However, requests for search, seizure of property or confiscation of the proceeds from crime may be executed only if the offences to which the requests relate are punishable under both the law of the requesting state and the law of the Russian Federation.

CENTRAL AUTHORITIES

Requests for legal assistance, including the performance of procedural actions, shall be addressed to the central authority of the Russian Federation.

If there is a signed treaty with the requesting state providing for legal assistance in criminal cases, requests for legal assistance are addressed to the authorities of the Russian Federation designated as central authorities by that international treaty.

According to most bilateral treaties, the Prosecutor General's Office of the Russian Federation and the Ministry of Justice of the Russian Federation are designated as the central authorities of the Russian Federation for communications on legal assistance in criminal matters.

The Ministry of Justice of the Russian Federation for civil law matters, including civil law aspects of criminal cases, and the Prosecutor General's Office of the Russian Federation for criminal law matters are designated as the central bodies of the Russian Federation responsible for the implementation of the UN Convention against Transnational Organised Crime and the UN Convention against Corruption.

In the absence of a treaty on legal assistance in criminal matters, requests for legal assistance related to search and seizure of property are generally directed to the Prosecutor General's Office of the Russian Federation, while requests for confiscation of property are directed to the Ministry of Justice of the Russian Federation.

In accordance with the declarations and reservations made by the Russian Federation upon ratification of the Second Additional Protocol of November 8, 2001 to the Council of Europe Convention on Mutual Assistance in Criminal Matters of April 20, 1959, the central authorities authorised to send and receive requests containing requests for legal assistance in criminal matters as well as information transmitted without request are:

The Supreme Court of the Russian Federation – on the judicial activities of the Supreme Court of the Russian Federation in criminal cases;

The Ministry of Justice of the Russian Federation – on the judicial activities of all courts in criminal cases (with the exception of the Supreme Court of the Russian Federation);

The Investigative Committee of the Russian Federation, the Ministry of Internal Affairs of the Russian Federation, the Federal Security Service of the Russian Federation, and the Federal Customs Service – on cases involving crimes within their jurisdiction;

The Prosecutor General's Office of the Russian Federation – for other matters of legal assistance in criminal cases.

The Ministry of Justice of the Russian Federation is the competent authority responsible for examining and submitting requests for copies of sentences and documents on the measures provided for in Article 4 of the Additional Protocol to the Council of Europe Convention on Mutual Assistance in Criminal Matters.

Requests to search a residence, to seize property, to temporarily transfer a person in custody, as well as other requests for legal assistance affecting fundamental human and civil rights and freedoms and requiring a court or prosecutor's decision, shall be addressed to the Prosecutor General's Office of the Russian Federation.

For the purposes of Article 1, paragraph 3, of the Council of Europe Convention on Mutual Assistance in Criminal Matters, the following shall be considered as administrative authorities:

The Supreme Court of the Russian Federation - on matters of judicial activity of the Supreme Court of the Russian Federation;

The Ministry of Justice of the Russian Federation – concerning the judicial activities of all courts (with the exception of the Supreme Court of the Russian Federation);

The Ministry of Internal Affairs of the Russian Federation, Federal Security Service of the Russian Federation, Federal Customs Service – on procedural actions related to their administrative activities;

The Prosecutor General's Office of the Russian Federation – on other matters.

The central authorities designated under Article 33, paragraph 1, of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism are:

Ministry of Justice of the Russian Federation – on cooperation related to the activities of the courts of the Russian Federation;

The Prosecutor General's Office of the Russian Federation for all other matters.

Contact details of the central authorities of the Russian Federation are provided at the end of this guide.

RULES THAT MUST BE FOLLOWED WHEN SUBMITTING A REQUEST TO THE RUSSIAN FEDERATION

In order to obtain legal assistance from the Russian Federation, it is recommended to follow the following steps:

STEP 1: CONSULT WITH THE CENTRAL AUTHORITY BEFORE SENDING A REQUEST

If there is an international treaty in place between the Russian Federation and the state sending a request for legal assistance in criminal matters, then when sending requests, including those involving the recovery of stolen assets, prior consultation with the central competent authority is not generally practiced, since

the basic requirements governing the form and content of the request for legal assistance are set out in the provisions of international treaties.

However, in the event that the requesting state has questions related to the content of the request, the central authorities of the Russian Federation will give the necessary advice.

STEP 2: SPECIFY THE BASIS ON WHICH LEGAL ASSISTANCE IS BEING SOUGHT

The request must specify the name of the international treaty between the Russian Federation and the state sending the request for legal assistance in criminal matters serving as the basis for the request.

In the absence of an agreement on legal assistance in criminal matters, legal assistance is rendered based on the principle of reciprocity. In view of the above, the requesting state guarantees compliance with the principle of reciprocity by written obligation to render the Russian Federation similar legal assistance on the basis of this principle.

STEP 3: SPECIFY THE AUTHORITY CONDUCTING THE INVESTIGATION, CRIMINAL PROSECUTION OR JUDICIAL PROCEEDINGS

The request must specify the full and exact name of the requestor, i.e. the authority which is conducting investigation, criminal prosecution or judicial proceedings, and the number of the criminal case in which legal assistance is requested.

STEP 4: DESCRIBE THE CIRCUMSTANCES OF THE CASE

The contents of the request must include the following:

- 1) Qualification of the offense with reference to the relevant law of the requesting state;
- 2) Description of the factual circumstances of the offense;
- 3) Information on the amount of damage caused by the offense;
- 4) Complete background information on the persons concerning whom the request is being submitted (including date and place of birth, citizenship,

occupation, place of residence or place of stay, and their procedural status in the criminal case). If complete information is not available, it should be noted that the requestor does not have any other information. For legal entities, their name, registered address and actual place of business shall be indicated. If the location of the persons concerning whom the request is being submitted is unknown, it is advisable to first take preliminary steps aimed at determining their information and addresses, for example, through Interpol, since most of the international treaties on legal assistance in criminal matters do not provide for any investigative activities;

5) If the recovery/seizure of documents (including banking/financial) is required, the request shall specify the location of the organization or bank where the documents are presumably being held, including the account number to which the documents relate, a list of the documents subject to seizure, and for what period the documents are to be seized;

6) If the request requires the execution of a search, it should specify the address of the person or entity where the search is to be conducted, including a list of the items/documents to be recovered during the search;

7) If the seizure of criminal proceeds is required, the location of this property shall be indicated, as well as justification for the request, explaining the relationship between the offense and the assumed proceeds;

8) For each requested measure, its justification and the goals being pursued should be indicated.

STEP 5: ATTACH EXTRACTS FROM APPLICABLE LEGISLATION

Attach extracts from legislation applicable to the offenses under investigation or prosecution, including a list of penalties which apply to these offenses.

STEP 6: DESCRIBE THE LEGAL ASSISTANCE BEING REQUESTED

The legal assistance being requested must be logically linked to the descriptive part of the request. Otherwise, the requesting state will be asked to provide additional information, which may substantially delay execution of the request.

It is advisable to present the legal assistance requested as separate items.

The text of the request must contain guarantees on the use of the obtained information and documents solely for the purposes specified in the request, as well as an obligation to return the original documents and physical evidence seized during execution of the request.

If the presence of representatives of the requesting state is necessary during execution of the request, the request shall include the corresponding petition stating the purpose of such presence, details of the officials whose presence is requested (full name, title, contact information), and the expected timing of their arrival.

Requests shall be executed in accordance with the procedures envisioned under applicable Russian Federation law. If an international treaty establishes rules other than those stipulated in Russian legislation, the rules of the international treaty shall be applied.

When executing a request, the procedural rules of the requesting state can be applied in accordance with an international treaty or on the basis of reciprocity, if the requesting state so requests, and provided they do not contravene the law and/or international commitments of the Russian Federation. In this case, the request must include the national procedural rules to be followed in executing the request and a justification of the need for their application.

Requests for legal assistance shall be accompanied with:

a) Decrees sanctioning execution of the requested legal proceedings (decree on recovery, search, seizure, etc.) issued under the law of the requesting state;

b) If the request requires the performance of proceedings requiring court judgment under applicable Russian Federation law, the corresponding court judgment shall be attached;

c) Extracts from legislative acts qualifying the offense according to the law of the requesting state.

The authenticity of the request and the documents attached thereto shall be certified with the official seal of the authorized authority of the requesting state and signed by the proper official.

Additional requirements governing requests for testimony

The request must specify:

- a) The full details of the persons to be interrogated (including date and place of birth, citizenship, occupation, place of residence or place of stay, their procedural status in the criminal case). If complete information is not available, the respective remark shall be included to the effect that the requesting state does not have any other information;
- b) The questions that should be put to the person from whom evidence is required.

Additional requirements governing requests for the transfer of documents

The request shall specify the title of the requested documents and their relation to the offense, including their value to the criminal investigation.

The Russian Federation may transfer certified copies or certified photocopies of the records or documents requested, unless the requesting state expressly requests the transfer of originals.

The Russian Federation may postpone the transfer of the requested items, materials or documents, if these items, materials or documents are required thereby in connection with pending criminal proceedings.

In its request for the transfer of original documents, the requesting state must indicate its commitment to ensure their return to Russia as soon as possible.

Original documents transferred pursuant to such requests are returned by the requesting state as soon as possible, unless the Russian Federation refuses them.

Additional requirements governing requests for search and seizure

The request must provide a precise description of the place or person to be searched and/or item to be seized, explain the significance of these items or documents to the criminal investigation, and justify these actions (search, seizure) in accordance with applicable Russian Federation law.

In accordance with the provisions of Article 183 of the Criminal Procedure Code of the Russian Federation, if the recovery of certain items and documents relevant to the criminal case is required, and if it is known exactly where they are being held and by whom, their seizure shall be executed. Seizure is executed on the basis of the respective investigator's order. The seizure of objects and documents containing state or other secrets protected by federal secrecy law, as well as objects and documents containing information on the deposits and accounts of citizens at banks and other credit institutions and items pledged to or deposited at pawn shops, is executed on the basis of the respective court judgment.

In this regard, if it is necessary to execute seizure of the aforementioned documents, and if the law of the requesting state also provides for court judgment, its copy must be attached to the request. If seizure of the aforementioned documents in the requesting state does not entail a ruling or court order, this shall be reflected in the request and attached thereto in the form of an extract from the state's criminal procedural law on the procedure for similar investigations within the territory of the requesting state.

Should the seizure of documents be required, including banking and financial records, the location of the organization or bank where the documents are presumably held shall be specified, as well as the account number to which the documents relate, a list of the documents subject to seizure and for what period the seizure of the documents is necessary.

If the request requires the execution of a search, the address of the person or entity where the search is to be conducted shall be specified, a list of the items and documents to be recovered during the search shall be indicated, and the corresponding resolution of the investigator or court judgment shall be attached (in the case of a search in a dwelling place).

The Russian Federation executes orders to conduct the search or seizure of property, provided that:

a) The offense motivating the request is punishable under both the law of the requesting state and the law of the Russian Federation;

b) The offense motivating the request in the Russian Federation is an offense punishable by a term of imprisonment of not less than one year or by a more severe punishment;

c) Compliance with the request does not contravene applicable Russian Federation law.

Additional requirements governing requests for the seizure of property obtained by criminal means, for the purposes of eventual confiscation

The request shall provide the description of the property to be seized, any available information on its location and, if relevant, the estimated value of the property. The requesting state should provide such factual evidence that would be sufficient for the Russian Federation to take steps to obtain a relevant decision in compliance with domestic law. In particular, in order for the request for the seizure of property and the freezing of accounts to be enforceable, the requesting state should demonstrate the link between the property sought to be seized and specific illegal transactions or criminal activity.

The request must be accompanied by the corresponding judicial decisions issued in the requesting state (noting that they are final), information regarding the volume of execution of such court decisions, or an explanation of the procedure for property seizure pursuant to applicable Russian Federation law.

In addition, the request should explain what measures the requesting state has taken to duly notify any bona fide third parties and to ensure due process.

Additional requirements governing requests for the confiscation of criminal proceeds

Under Russian law, the confiscation of property is only possible by court order or on the basis of another judicial decision issued on the outcome of the trial in the respective criminal matter.

In accordance with the provisions of Article 1041 of the Criminal Code of the Russian Federation, the confiscation of property involves its compulsory uncompensated seizure and conversion into state property upon conviction for certain categories of crime.

Under Article 243 of the Civil Code of the Russian Federation, the court, in cases stipulated by law, may seize property without compensation to the owner as penalty for a crime or another offense ("Confiscation").

In order to enforce this category of requests, all possible measures are taken within the Russian legal system to proceed with execution to the extent specified in the request and to the extent that it relates to the proceeds of crime located in the Russian Federation.

The request from a competent authority of a foreign state for recognition and enforcement of a verdict or a court ruling of a foreign state with respect to the confiscation of criminal proceeds located in the Russian Federation must specify the following:

1) The name of the competent authority of the foreign state from which the request originates;

2) The title of the criminal case and information about the court of the foreign state that passed the verdict/issued the ruling;

3) Information on the property located in the territory of the Russian Federation and subject to confiscation as proceeds of crime, as well as the information on the owner of this property, including their date and place of birth, nationality, occupation, place of residence or stay, and, for legal entities, their name and location;

4) The request of the competent authority of the foreign state to recognize the verdict (ruling) of the court of the foreign state regarding the confiscation of criminal proceeds and to authorize the execution of the verdict regarding the confiscation of criminal proceeds in accordance with the verdict (ruling).

Other information, including telephone numbers, fax numbers, e-mail addresses, if such is necessary for a proper and timely consideration of the case, may be included in the request of the competent authority of the foreign state.

Documents stipulated by the international treaty of the Russian Federation must be attached to the request of the competent authority of a foreign state.

However, if it is not stipulated by the international treaty of the Russian Federation, the following documents must be attached:

- a) A copy of the verdict (court ruling) of a foreign state ordering the confiscation of the criminal proceeds located in the territory of the Russian Federation certified by the court of the foreign state;
- b) A document confirming the entry into force of the verdict of a foreign state;
- c) A document on execution of a foreign state's judgment (decision), if previously executed in the territory of the respective foreign state;
- d) A document confirming that the property subject to confiscation is located in the territory of the Russian Federation;
- e) A document confirming that the person, against whom a judgment in absentia has been reached regarding the confiscation of the proceeds of crime located in the territory of the Russian Federation, did not participate in the court proceedings, although they were duly and timely informed about the place, date and time of the trial;
- f) A certified translation of the documents specified in items (a) through (e) into Russian.

STEP 7: SPECIFY THE NEED FOR CONFIDENTIALITY

If necessary, the request should include a request to maintain the confidentiality of the information provided, stating the reasons for which it is deemed necessary.

STEP 8: SPECIFY THE TIMEFRAME FOR EXECUTION OF THE REQUEST

It is advisable that the request indicate the expected timeframe of its execution, providing the rationale behind said timeframe.

STEP 9: PROVIDE A LIST OF CONTACTS IN THE REQUESTING STATE

The request should specify the full address and other information of the requestor (contact phone numbers, fax, e-mail) for the prompt resolution of issues arising during execution of the request.

STEP 10: TRANSLATE THE REQUEST

The request and the attached documents must be accompanied by their translation into Russian or any other language envisioned by the international treaty serving as the basis for request submission.

If there is no international treaty, the request and the accompanying documents must be translated into the Russian language.

STEP 11: RESTRICTIONS ON THE USE OF OBTAINED INFORMATION

The information obtained during execution of the request may only be used for the purposes specified therein. The possibility of using the materials for other purposes must be agreed with the relevant central authority of the Russian Federation. The request should therefore contain guarantees that the information and documents provided by the Russian Federation in execution of the request will be used only for the purposes specified in the request, as well as obligations to return original documents and other evidentiary material seized in the course of the execution of the request.

STEP 12: NOTIFICATION ON THE COURSE OF REQUEST EXECUTION

A request for legal assistance is executed upon the receipt by telex, fax, e-mail or other similar means of communication. The requesting party shall provide the original request as soon as possible. The information on the results of the execution of the request is provided only upon receipt of the original.

On the basis of the submitted request, the competent authorities of the Russian Federation will take measures to ascertain whether or not the assets in question are located within its jurisdiction. The appropriate central body of the

Russian Federation will then notify the initiator of the request as to the results of the search.

In the event of the discovery of the assets in question, the competent authorities of the Russian Federation, based on the submitted request, shall proceed with their seizure in accordance with applicable Russian Federation law for the purposes of preventing any actions involving said assets, including any transfer or disposal thereof, until such time as a ruling is entered by the competent authority of the Russian Federation with respect thereto. The initiator of the request shall similarly be notified to that effect.

STEP 13: ACCEPTANCE OR REJECTION OF A REQUEST

Based on the results of its comprehensive consideration of the request and other case materials, the central authority of the Russian Federation will notify the initiator of the request of the decision made in the matter. The decision on asset recovery is subject to the mandatory requirements set forth in article 57 of the United Nations Convention against Corruption.

In the event that the request is rejected, it would be advisable to consult with the central authority of the Russian Federation in order to address any shortcomings in the submitted request, and, where possible, submit the request again by following steps 2 – 12.

In the event that the request is accepted, the central authority of the Russian Federation will notify the initiator of the request to that effect.

STEP 14: EXECUTION OF THE RETURN OF ASSETS

Upon its receipt of notification that the request has been accepted, the requesting party is advised to consult with the central authority of the Russian Federation on the volume, terms and procedure of asset return.

Assets shall be returned to the initiator of the request in accordance with applicable Russian Federation law.

Please be advised that under the return of assets, the rights of third-party good-faith acquirers must be observed in accordance with the legislation of the Russian Federation.

Assets may be returned either in full or in part in due consideration, inter alia, of the possible need to reimburse the competent authorities of the Russian Federation for related expenses.

CONTACT INFORMATION

Prosecutor General's Office of the Russian Federation

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In November 2009, the General Prosecutor's Office of the Russian Federation established a national contact point for practical international cooperation in the detection, seizure, confiscation and recovery of assets derived from corruption. To support its activities, the following contact persons have been established:

on legal assistance:

Deputy Head of the General Department of International Legal Cooperation, Head of the Legal and Law Enforcement Assistance Department, Pyotr Litvishko (English), phone: 007 495 982 75 23, e-mail: p.litvishko@genproc.gov.ru;

on anti-corruption cooperation:

Deputy Head of the Department for Supervision of the Implementation of Legislation on Combating Corruption, Aslan Yusufov (English), phone: 007 495 692 16 66, fax: 007 495 986 34 00, e-mail: a.yusufov@genproc.gov.ru;

Senior Prosecutor of the Organizational and Analytical Division of the Department for Supervision of the Implementation of Legislation on Combating Corruption, Olga Mokhova (English), phone: 007 495 986 33 90, e-mail: mokhova_ou@mail.ru;

Prosecutor of the Organizational and Analytical Division of the Department for Supervision of the Implementation of Legislation on Combating Corruption, Mikhail Mukhin (English), phone: 007 495 982 42 15, fax: 007 495 982 77 42, e-mail: mukhin.m@genproc.gov.ru.

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